

THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

)

Plaintiff,

)

MEMORANDUM
DECISION AND
ORDER DETAINING

DEFENDANT

vs.

)

JOSE LUIS MILLAN,

)

)

Case No. 2:18-CR-00433 DS-2

Defendant.

I. INTRODUCTION

This matter is before the court on Defendant Jose Luis Millan's Motion for Review of Detention. The Court held a hearing on the Motion on October 3, 2018. For the reasons discussed herein, the Court orders Defendant be detained pending trial.

Mr. Millan is charged in an Indictment with one count of Possession of Methamphetamine with Intent to Distribute. Magistrate Judge Pead conducted a detention hearing on September 13, 2018, and concluded that Mr. Millan be detained. Mr. Millan seeks review of that decision.

To determine whether there are conditions of release that will reasonably assure the appearance of Defendant and the safety of any other person and the community, the Court considers the following factors:

(1) the nature and circumstances of the offense charged, including whether the

offense ... involves ... a controlled substance [or] firearm ...;

(2) the weight of the evidence against the person;

(3) the history and characteristics of the person, including–

(A) the person's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and

(B) whether, at the time of the current offense or arrest, the person was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law; and

(4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release....

18 U.S.C. § 3142(g).

II. DISCUSSION

After considering the factors set forth in 18 U.S.C. § 3142(g), and the information presented at the October 3, 2018 detention hearing and consultation with U.S. Probation and Pretrial Services, the Court concludes, de novo, that Mr. Millan must be detained pending trial because the Government has proven by clear and convincing evidence that no condition or combination of conditions of release will reasonably assure the safety of any other person or the community.

Mr. Millan is charged with one count of Possession of Methamphetamine with Intent to Distribute. The weight of evidence favors detention. During a search of the vehicle driven by Mr. Millan on September 8, 2018 officers found eight pounds of methamphetamine in the car that had been allegedly driven across state lines.

The Court also considers the history and characteristics of Mr. Millan. He has a history of prior arrests and convictions including charges involving a pattern of similar criminal activity and drug-related arrests. He has admitted to substance abuse including the use of marijuana. In sum, these considerations weigh in favor of detention despite his strong ties to the community and family responsibilities.

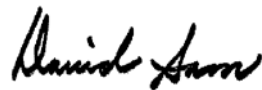
Finally, as to the nature and seriousness of the danger to any person or the community that would be posed by Mr. Millan's release, the reasons set forth above weigh in favor of detention.

III. CONCLUSION

Based on the above stated reasons, Mr. Millan is ordered detained pending trial. Although the Court's analysis does not address or support the conclusion that Defendant poses a risk of flight, the analysis does support the conclusion that detention is required to assure the safety of any other person and the community.

Dated this 3rd day of October, 2018

BY THE COURT:

A handwritten signature in black ink, appearing to read "David Sam", written in a cursive style.

DAVID SAM
SENIOR JUDGE
UNITED STATES DISTRICT COURT